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CEDAW

Convention on the Elimination of All Forms of Discrimination against Women

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ENGLISH ONLY

Committee on the Elimination of Discrimination against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States parties

NEW ZEALAND

Corrigendum

Page 16, sub-paragraph d, lines 13 and 14

Delete Each district Education Board has advisors (for rural women and their children).

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NEW ZEALAND

V.87-90564

COOK ISLANDS

INTRODUCTION

The Cook Islands comprise 15 islands divided into the Northern and Southern Cooks, scattered over an area of some 2,204,000 square kilometres of ocean. Extending from Penrhyn, situated 9 degrees south of the equator, to Mangaia due north of the Tropic of Capricorn, the Cook Islands are bounded on the East and West by the 156th and 167th Meridians of the West longitude respectively and on the north and south by the 8th and 23rd parallels of south latitude.

The islands of Rarotonga, Atiu, Mauke, Mangaia, Aitutaki and Mitiaro are elevated and fertile, while Manuae and Takutea and the islands of the Northern Group, comprising Penrhyn, Manihiki, Rakahanga, Pukapuka, Palmerston, Nassau and Suwarrow, are sea-level atolls. The total land area of the 15 islands is approximately 236 square kilometres.

The indigenous people are of Polynesian origin and referred to as Maori. They share a strong resemblance in origin, culture, tradition and language to the New Zealand Maori. The population taken at the last census was 17,754 of which 95% are Maori and the remaining 5% are foreigners, predominantly of New Zealand origin. The majority of the population (9,530) resides on the main island and capital, Rarotonga. The majority of Cook Islanders who practice a religion are Christians, for the most part Protestants and Roman Catholics. The economy of the country is based primarily on agricultural produce (which includes fresh fruits, vegetables, copra and processed produce) and tourism.

On 4 August 1965, the Cook Islands exercised its right of self-determination and achieved self-government in free-association with New Zealand. The relevant legislation (Cook Islands Constitution Act 1964) came into effect after a United Nations - supervised election of the Cook Islands Assembly.

CONSTITUTION AND LEGISLATIVE MEASURES

The Constitution of the Cook Islands is the supreme law of the Cook Islands and Parliament alone has the power to repeal or amend it (Article 41). Such repeal or amendment, however, can only be made by a two-thirds affirmative vote of Parliament:

"Article 41 Power of Legislative Assembly to repeal or amend this Constitution - (1) Subject to the provisions of subclause (2) of this Article, no Bill repealing or amending or modifying or extending this Constitution or

any provision thereof or making any provision inconsistent with any provision of this Constitution shall be deemed to have been passed by the Assembly, unless -

a At both the final vote thereon and the vote preceding that final vote it receives the affirmative votes of not less than two-thirds of the total membership (including vacancies) of the Legislative Assembly; and

b There is an interval of not less than 90 days between the date on which that final vote was taken and the date on which the preceding vote was taken;

and no such Bill shall be presented to the Queen's Representative for assent unless it is accompanied by a certificate under the hand of the Speaker to that effect.

Article 64 sets out six basic human rights and freedoms. These were added to the Constitution by Amendment No. 9 in 1981:

"Fundamental human rights and freedoms - (1) It is hereby recognised and declared that in the Cook Islands there exists and continues to exist, without discrimination by reason of race, national origin, religion, opinion, belief, or sex, the following fundamental human rights and freedoms:

a The right of the individual to life, liberty, and security of the person, and the right not to be deprived thereof except in accordance with law:

b The right of the individual to equality before the law and to the protection of the law:

c The right of the individual to own property and the right not to be deprived thereof except in accordance with law:

"Provided that nothing in this paragraph or in Article 40 of this Constitution shall be construed as limiting the power of Parliament to prohibit or restrict by Act the alienation of Native Land (as defined in section 2(1) of the Cook Islands Act 1915 of the Parliament of New Zealand):

d Freedom of thought, conscience; and religion:

e Freedom of speech and expression:

f Freedom of peaceful assembly and association.

(2) It is hereby recognised and declared that every person has duties to others, and accordingly is subject in the

exercise of his rights and freedoms to such limitations as are imposed, by any enactment or rule of law for the timebeing in force, for protecting the rights and freedoms of others or in the interests of public safety, order, or morals, the general welfare, or the security of the Cook Islands."

Prior to self-government, Cook Islanders were able to vote for a Legislative Assembly, which had certain powers to enact legislation.

Upon attaining self-government, both men and women have had equal rights to vote for, and seek election to Parliament. The first Speaker of Parliament from 1965-78 was a woman, although no woman was elected to Parliament and appointed to Cabinet in a previous Government.

The equal status of women is recognized by the following legislation: Secion 95 of the Judicature Act 1980-81 equates the legal capacity of a married woman to that of an unmarried woman and abolishes the common law rule that for certain purposes a husband and a wife are deemed to be one person:

"S.95. Legal Status of Married women - (1) Save where otherwise provided by any other enactment, the legal capacity of a married woman, whether contractual, proprietary, testamentary, or of any other kind whatsoever, shall be the same as that of an unmarried woman.

(3) The rule of common law that for certain purposes a husband and wife are deemed to be one person only is for all purposes hereby abolished.

Section 7 of the Citizenship Act 1977 (of New Zealand) abolishes the restriction regarding citizenship by descent in cases whether the mother is a New Zealand citizen, which is provided for in the Citizenship Act 1948 (United Kingdom).

The Income Tax Act 1972 makes no distinction between men and women earners and deductions may be claimed by either of them where their spouse or children are dependents:

"S.44 Rebate in respect of dependent spouse (1) Subject to this section, in the assessment of every married taxpayer (other than a person to whom section 47 applies) there shall be allowed from the amount of income tax that would, apart from this section, be payable by the taxpayer in respect of the income derived by him or by her in the income year, a rebate in respect of his or her spouse of a sum equal to the smaller -

a One percent of the taxable income derived by the taxpayer for that year;

b $50

(2) The amount of the rebate otherwise allowable under subsection (1) of this section shall be diminished by an amount equal to one-hundreth thereof for every $3 of the excess of the income over $200 derived by the spouse in his or her own right from all sources in the income year."

FAMILY LAW

Women have equal rights to men in family law. Both men and women have equal rights to claim custody and maintenance of children, and in custody cases the paramount issue is the welfare of the child.

Insofar as matrimonial property is concerned when a dissolution of marriage occurs, there is no legislation in force in the Cook Islands governing this, but the courts have recognised the common law doctrine of the constructive trust (see Sandilands v Carlaw) which applies whether or not the parties are married.

EMPLOYMENT

The Public Service is the largest single employer in the Cook Islands, and on the island of Rarotonga employs 3/4's of that population. The Public Service Act 1975, makes no distinction between women and men employees and both men and women receive equal pay for equal grading and merit. The percentage of females to males is 35-65%:

"Section 10. Appointments to the Public Service - (2) Subject to subclause (3) and (4) of Article 74B of the Constitution, the Public Service Commissioner together with two heads of department appointed in accordance with subsections (3) and (4) of this section, shall make all appointments to graded positions of the Public Service and shall in making such appointments have regard to the need to maintain and develop an efficient career service based on the recruitment of adequately qualified persons. The Public Service Commissioner and heads of departments shall make no appointment to the Public Service unless they are satisfied that such appointment is necessary and that the appointee has clearly more merit than for the position to be filled than any other officer who is available for the position: Provided that before making such appointments the Public Service Commissioner and the two departmental heads shall consult with the departmental head within whose Department the position to be filled exists."

Employees are protected in that there is an appointments committee which determines the appointment of employees. Moreover if an applicant is dissatisfied with an appointment she/he has the right of appeal by virtue of section 40.

Right of Appeal

Subject to the provisions of section 45 and 46 of this Act, every officer shall have a right of appeal in accordance with this section against the promotion of any officer, or the appointment of any person who is not an officer to any graded position if (in either case) the appointment of the appellent to the position would have involved his promotion.

Section 41. Notice of Appeal - Notice of appeal under section 40 of this Act and of the grounds for appeal shall be forwarded to the Commissioner in writing in time to be received by him within 14 days after the date of which the decision has been notified to the officer or expatriate employee concerned, or within such extended time as the Board of Appeal may in any case allow after good and sufficient reason has been shown in writing by the appellent."

AUTHORITY TO PROTECT EQUALITY OF WOMEN

No specific authority with the sole purpose of protecting equality of women exists, but protection exists in a number of areas:-

Ombudsman Act 1984

"11 Functions of Ombudsman - (1) It shall be a function of the Ombudsman to investigate any decision on recommendation made on any act done or omitted, whether before or after the passing of this Act, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any of the Departments or organisations specified in the Schedule to this Act, or by any officer, employee, or member of any such Department or organisation in his capacity as such officer, employee, or member."

Public Service Manual of Instructions

"21.06 Maternity Leave

Up to 6 weeks on full pay shall be allowed to permanent staff for maternity leave.

Where additional leave is necessary this shall be taken from the staff members' sick leave (if any) and if none, leave without pay. A medical certificate must be sent to the Commissioner two months after the child's birth otherwise the maternity leave will be regarded as leave without pay and recoveries made accordingly."

Industrial and Labour Ordinance 1964

"32 Minimum Wages - (1) Notwithstanding anything to the contrary contained in any industrial agreement or contract of service whether in writing or otherwise, every worker shall be entitled to receive from his employer payment for his work at not less than the appropriate minimum rate prescribed under subsection (2) of this section."

"49 Employment of Women following confinement - No woman shall be permitted during the period of six weeks immediately following her confinement to work in any factory other than a factory in which only members of the same family are employed unless the medical officer certifies that a lesser time is sufficient.

50 Rest period for women - In every case where a woman worker is employed by an employer in any factory where her normal and regular employment involves continuous standing, she shall be allowed ten minutes rest period every three hours if required to work more than four hours at a stretch.

51 Requirements regulating the use of machinery by women - No woman shall be employed to work at any machine in a factory unless she has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed, and unless -

a she has received sufficient training in work at the machine; or

b she is under adequate supervision by a person who has a thorough knowledge and experience of the machine".

MEANS TO PROMOTE AND ENSURE DEVELOPMENT OF WOMEN

Women total almost half the population of the Cook Islands, in fact, 200 short of half. The Division of Community Development in Housing, Welfare, Youth, Women and Sports is very large. The following is its historical and organisational structure.

Prior to 1980, the Cook Islands Women's Federation encouraged and coordinated the development of women's groups and their activities.

In 1979, a study was carried out by the Department of Internal Affairs of the Ministry of Social Services, and a Women's Affairs Division was created within the Ministry.

The first priority of the Division has been to encourage and promote the production and marketing of Cook Islands handcrafts. Handcraft production has been a traditional and skilled role of women and a source of independent income as well as preserving cultural heritage. Moreover, the Women's Federation leases premises in Rarotonga and successfully operates sales of such items to tourists.

The Women's Federation is becoming increasingly involved in extending its activities to islands other than Rarotonga, and organising workshops and seminars to encourage women to utilise and therefore preserve traditional and valuable skills, and to participate in community affairs generally.

The Cook Islands National Council of Women is a non-governmental organisation which was established and accepted as a member of the South Pacific Council of Women in December 1984. The Constitution of the National Council of Women provides in its aims and objectives to promote and develop the economic and social conditions and well-being of the women. This may be achieved through sponsoring activities, conferences, meetings, seminars and workshops for the education and training of women and a general awareness of women's rights.

Since its incorporation as an organisation, the National Council of Women has hosted the 24th South Pacific National Council of Women's Conference in Rarotonga, from 19-27 March 1985, and has represented the country at the 1985 World Conference to mark the end of the UN Decade for Women held in Nairobi.

Furthermore the Council has sponsored participants' workshops in Papua New Guinea, Tonga, Western Samoa and the Cook Islands. Moreover the Council has financed three workshops dealing with development, employment and management skills. There are 33 women's organisations registered with the Cook Islands National Council of Women.

ENFORCEABILITY OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND RESERVATIONS

The provisions of an international treaty ratified by the Cook Islands does not automatically become law in the Cook Islands, and legislation adopting the principles contained in the treaty has to be passed by Parliament to give effect enforceable in the Courts.

Nonetheless the position is again protected by the Constitution and enactments of Parliament, some of which have hereinbefore been referred to.

The Government of the Cook Islands entered the same reservations to the Convention as the Governments of New Zealand and Niue with the addition that the Government of the Cook Islands reserves the right not to apply Article 2(f) and Article 5(a) to the extent that the customs governing the inheritance of certain Cook Island chiefly titles may be inconsistent with those provisions.

EDUCATIONAL QUALIFICATIONS

Educational opportunities are equally available to women and this has resulted in an increased number of women educated at the primary, secondary and tertiary level. As an example one half of the students at the Teachers Training College are women.

Although social changes recognise women's equal status, women in practice do not attain equality in number in the fields of tertiary education and employment. Despite the population being almost equivalent in number, the percentage of students pursuing tertiary education is far greater among men.

Number of Students for Tertiary Education

1975	Females	8	1985	Females	25
	Males	23		Males	90

Number of Students at High Schools on Rarotonga

1985	Nukutere	Females	62	Males	68
	Tereora	Females	253	Males	208
	Total		315		276

Statistics indicate that there are more females attending high schools in Rarotonga than male students, but the circumstances alter at the tertiary and employment level. A number of Government ad hoc bodies exist, such as the Tourist Authority, Cook Islands Development Bank, and the Monetary Board, and women are more commonly than not appointed to the Board of Directors of these bodies. Moreover, many women hold senior positions within the Public Service.

CONCLUSION

As with many traditional societies, however, the role of women in the Cook Islands perhaps has not kept pace with rapidly changing international conceptions. However, women's participation in some vital areas, for example in education and traditional leadership, has increased with a momentum of its own. Women play a very important role at the preschool and primary levels of education where they make up a larger majority of the teachers.

NIUE

Introduction

Niue's population at the 1981 census was 3,298 comprising 1668 males and 1630 females. Outward migration, mainly to New Zealand, is a major reason for a 16% reduction in the population since the 1976 census: the numbers of Niueans in New Zealand are about treble those resident on the island. The population is predominantly Christian. While the Niueans are Polynesians, there are no chiefs or tribal system, and social organisation is based on extended families. The head of each extended family has a voice in land matters only, while the elders of each community have a voice in matters affecting each village. Niue has a bilineal system of inheritance.

2 Constitutionally Niue is a self-governing state in free association with New Zealand which is responsible for defence and foreign affairs. There is provision in the constitution for New Zealand to provide necessary economic and administrative assistance. The Islanders are New Zealand citizens. The constitution provides for an elected Legislative Assembly (21 members) with universal suffrage. One woman is a member of the Legislative Assembly. General direction and control of the island is in the hands of a Cabinet of four members. According to the 1985 Review of the Niue Public Service, 175 out of the 606 people employed in the Niuean Public Service are women.

Reservations to the Convention

3 The Government of Niue entered the same reservations as the Government of New Zealand on ratification of the Convention on the Elimination of All Forms of Discrimination Against Women. (See Part I(b) of the New Zealand section of this report.)

Legislative Measures

4 No legislation with specific reference to women has been passed in Niue since ratification of the convention. There are no restrictions in law or practice on the enjoyment of each right as set down in the convention.

National Machinery

5 Niue has a Women's Affairs Welfare Officer whose functions are:

a generally to foster and develop activities, programmes and policies which will benefit women;

b serve as coordinator between Niue Government and the National Women's Groups; and

c serve as Secretary to the Women's Advisory Committee.

Her specific responsibilities are:

a to keep fully informed on women's affairs, needs and aspirations by keeping in touch with all sections of the community;

b to foster worthwhile policies, programmes and activities affecting women, including:

i initiating proposals and cooperating in the initiating of programmes with women's interest groups, government and external agencies; and

ii assisting in the implementation of programmes affecting women, especially by coordinating assistance of all kinds from all sources;

c to promote research into women's needs;

d to disseminate useful infomation to Women's Groups;

e to negotiate and organise training programmes suitable for women;

f to coordinate proposals from Women's Groups to Government and conveying and implement Government decisions relating to women;

g to serve as Secretary to the Women's Advisory Committee which includes:

i arranging meetings and agenda;

ii producing minutes;

iii working towards the implementation of decisions by liaising with interested groups, government departments and external agencies.

Responsible to the Minister of Community Affairs, the Women's Welfare Officer works with:

Housing Officers,
Community Education Officers,
the Youth, Sport and Probation Officer,
the village Manpower Training Coordinator,
Village and Community Groups,
and the Consumer and Price Tribunal Committee.

6 Aggrieved women have access to the Women's Welfare Officer. They can also seek the protection of the police or the Land Courts.